

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

U.S. DISTRICT COURT
FILED AT WHEELING, WV
MAY 22 2008
NORTHERN DISTRICT OF WV
OFFICE OF THE CLERK

UNITED STATES OF AMERICA
c/o United States Attorney
Northern District of West Virginia
Plaintiff,

v.

PAUL J. HARRIS, ESQUIRE
Defendant.

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CIVIL ACTION

NO. ~~07~~ 5:08-CV-102

COMPLAINT

1. This is a civil action by the United States of America for declaratory judgment and money damages to recover amounts due and owing to the Centers for Medicare and Medicaid Services ("CMS") by virtue of third-party payments made on behalf of James Ritchea, a Medicare beneficiary.

PARTIES

2. Plaintiff is the United States of America.

3. Defendant is Paul J. Harris, Mr. Ritchea's attorney. Defendant Harris's office is located in Wheeling, Ohio County, West Virginia.

JURISDICTION AND VENUE

4. This Court has jurisdiction pursuant to 28 U.S.C. § 1345, 42 U.S.C. § 1395y(b)(2), and 42 C.F.R. Part 411. Venue is proper under 28 U.S.C. § 1391(b)(2), because a substantial part of the events giving rise to the claim in this action occurred in this District.

FACTUAL BACKGROUND

5. On or about May 22, 2002, upon information and belief, Mr. Ritchea was using a ladder purchased from a local retailer when he fell and sustained injuries.

6. At the time of this incident, Mr. Ritchea was eligible for benefits through the federal Medicare program administered by CMS, and he received such benefits for injuries sustained in the accident.

7. Specifically, CMS has paid at least \$22,549.67 in Medicare claims submitted on behalf of Mr. Ritchea for medical services rendered as a result of said injuries.

8. On May 21, 2004, Mr. Ritchea and his wife, Dorothy Ann Ritchea, sued the retailer, alleging that the retailer was liable for Mr. Ritchea's injuries. Defendant Harris represented the Ritcheas in that action.

9. In July 2005, the Ritcheas and the retailer settled the above action. As part of that settlement, the Ritcheas and Defendant Harris received payment of \$25,000.

10. Defendant Harris forwarded the details of the settlement as well as his attorney's fees and costs to Medicare.

11. With this information, Medicare calculated its share of the attorney's fees and costs, subtracted this amount from its total payments, and determined that Medicare was owed \$10,253.59 out of the \$25,000 settlement.

12. Medicare informed Defendant Harris of this decision by letter dated December 13, 2005, and indicated that payment was due in 60 days.

13. To date, this debt has not been paid.

14. Pursuant to the statutory authority in 42 U.S.C. § 1395y(b)(2) and its implementing regulations at 42 C.F.R. Part 411, Defendant Harris is required to reimburse CMS.

15. Because this debt has not been repaid within the required sixty-day time period, CMS is also entitled to receive interest on this debt under 42 U.S.C. § 1395y(b)(2)(B)(ii) and 42 C.F.R. § 411.24(m)(2). The rate of interest accruing on this debt is 12.25% as provided for under

42 C.F.R. § 405.378(d).

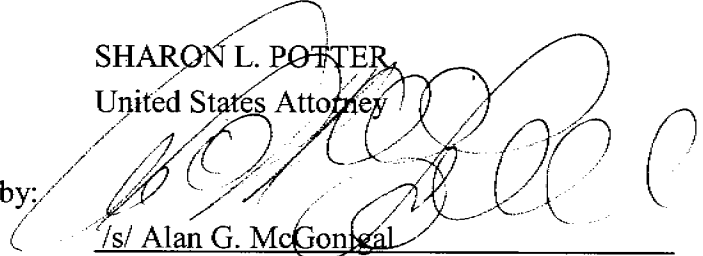
16. Moreover, because the United States has expended litigation costs because of opposition to the recovery of this debt, the United States will not pay its full share of the attorney's fees and costs. Instead, in accordance with 42 C.F.R. § 411.37(e)(2), the principal amount of the debt is now the total settlement amount minus the party's total procurement costs, or \$11,367.78.

WHEREFORE, the United States of America respectfully requests that the Court (1) enter judgment in its favor declaring that the United States is entitled to reimbursement from Defendant Harris for claims paid on behalf of James Ritchea related to his injuries sustained as a result of the May 22, 2002 incident, as alleged hereinabove, and (2) enter judgment in its favor in the amount of \$11,367.78 plus interest at the rate of 12.25% from December 13, 2005, and (3) award such other relief as the Court may deem appropriate, including, but not limited to, costs.

Respectfully submitted,

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